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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,954	09/22/2003	Enzo Berti	06387.00037	1212

22908 7590 04/01/2005

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EXAMINER

BALSIS, SHAY L

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,954

Applicant(s)

BERTI, ENZO

Examiner

Shay L. Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: continuous arcuate section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (USPN D468106).

Robertson teaches a dustpan and broom kit. The dustpan includes a tray with a leading edge and retention rib opposite the leading edge (claim 1). There is a handle connected to the retention rib and the handle is formed at a *generally* right angle with the leading edge (claim 1). The handle includes a broom handle cavity and a retention mechanism for receiving and retaining a broom handle (claim 1). The tray is bounded by the retention rib and the rib defines an arcuate circular arc section extending from one side of the leading edge and a substantially straight section extending from the other side of the leading edge (claim 3). The arcuate section of the retention rib engages the straight section at an intersection adjacent a side of the dustpan handle (claim 4). The broom has a broom handle with a bristle support attached to one end of

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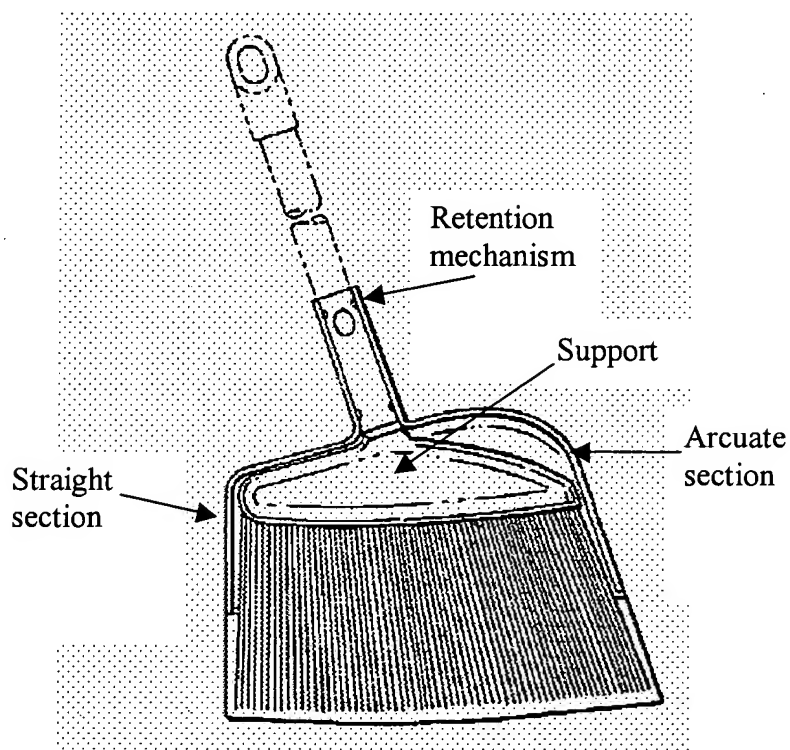
the handle (claim 1). The support has a top side attached to the handle and bottom side with bristles projecting from the bottom side (claim 1). The bristles define a sweeping plane and the broom handle axis and the sweeping plane form an obtuse angle (claim 1). The broom handle is engageable with the broom handle cavity on the dustpan (claim 1). The dustpan handle projects from an end of the arcuate section opposite the leading edge and at a position intermediate the ends of the arcuate section (claims 6, 7).

Robertson teaches all the essential elements of the claimed invention however, the reference fails to teach that the rib defines a continuous arcuate section extending from one side of the leading edge to the handle (claim 1). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use a continuous arcuate section because Applicant has not disclosed that a continuous arcuate section provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the arcuate section as taught by Robertson or the claimed continuous arcuate section because both arcuate sections perform the same functions of facilitating movement of dust or trash along its periphery by action of the broom bristles and funneling trash equally well. Therefore, it would have been obvious to one of ordinary skill in the art to modify Robertson to obtain the invention as specified in claim 1.

Robertson teaches all the essential elements of the claimed invention however, the reference fails to teach an angle of 50-75 degrees between the leading edge and the straight edge (claim 2). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide an angle of 50-75 degrees between the leading edge and the

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straight edge because Applicant has not disclosed that an angle of 50-75 degrees provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the angle as taught by Robertson or the claimed 50-75 degree angle because both configurations allow for proper collection and disposal of waste.



Robertson (USPN D468106, figure 1)

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Claims 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (USPN D468106) as applied to claim 1 above and further in view of Petner (USPN 5839145).

Robertson teaches all the essential elements of the claimed invention however fails to teach that the bristles have varying lengths (claim 8) and are longer at one longer bristle end than at the other shorter bristle end (claims 5, 9). Petner teaches a combination dustpan and broom. The broom of Petner has bristles that increase in length from one end of the broom to the other (figure 1, element 10). It would have been obvious to angle the bristles of Robertson as taught by Petner so that the broom will be able to reach into corners and hard to reach places without exerting extra effort.

Response to Arguments

Applicant's arguments filed 2/17/05 have been fully considered but they are not persuasive. Robertson teaches an arcuate section however fails to teach a continuous arcuate section. This is a modification that would have been obvious to one of ordinary skill in the art since both dustpans have the same function of collecting and funneling debris for disposal. The present invention does not teach why a continuous arcuate section is any different then the arcuate section as taught by Robertson. It appears that the continuous arcuate section is shaped to match the shape of the broom head and not to provide any advantage or inventive concept over the prior art. The shape, since it provides no function different than the prior art, is considered to be more of a design issue than a utility issue and therefore, the arguments are not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb
3/30/05


JOHN KIM
SUPERVISORY EXAMINER
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